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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

19 Cr. 802 (GBD)

5 MENDEL ZILBERBERG and ARON  
6 FRIED,

7 Defendants.

8 -----x

Videoconference

9 August 17, 2021  
10:10 a.m.

10 Before:

11 HON. GEORGE B. DANIELS,

12 District Judge

13  
14  
15 APPEARANCES

16 AUDREY STRAUSS

17 United States Attorney for the  
18 Southern District of New York

19 BY: SAGAR K. RAVI

Assistant United States Attorney

20 BRAFMAN & ASSOCIATES, P.C.

Attorney for Defendant Zilberberg

21 BY: BENJAMIN BRAFMAN

22 CLAYMAN & ROSENBERG, LLP

23 Attorney for Defendant

24 BY: BRIAN D. LINDER

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1 THE LAW CLERK: The Honorable George B. Daniels  
2 presiding.

3 THE COURT: All right. Good morning, gentlemen.

4 COUNSEL: Good morning, your Honor.

5 THE COURT: Let me start with the government. What's  
6 the status here? What are we going to do with this case?

7 MR. RAVI: Your Honor, I think, as the Court is aware,  
8 you know, this case was charged back in November 2019. We have  
9 had some delays due to the pandemic, but on -- most recently,  
10 the parties wrote the Court on June 28, 2021, to set a trial  
11 date in this matter, preferably in March of 2022. So right now  
12 the party discovery has been produced, and the parties are --  
13 it has been produced for some time, and I think the parties are  
14 prepared to set a trial date.

15 THE COURT: From your letter it was unclear to me  
16 whether you really expected there to be a trial. You think you  
17 are going to go to trial with this case?

18 MR. RAVI: As of this time, yes, we do believe it will  
19 go to trial.

20 THE COURT: And Mr. Brafman, what's your situation?  
21 When would you be available for trial?

22 MR. BRAFMAN: Your Honor, I think we all agree,  
23 subject to your Honor's approval, to the March '22 trial date.

24 THE COURT: March '22? Mr. Linder?

25 MR. LINDER: Yes, Judge. Good morning. That was the

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1 agreed-upon date that is acceptable for Ms. Kirschner and  
2 myself.

3 THE COURT: And what was the date suggested?

4 MR. BRAFMAN: It was a date in March. I don't believe  
5 we have a specific date in March that we agreed on.

6 THE COURT: Okay. How long does the government  
7 anticipate it will take to present its witnesses?

8 MR. RAVI: Your Honor, we would like to reserve two  
9 weeks for the trial. We hope it will be shorter than that, but  
10 we would like to reserve two weeks.

11 THE COURT: What about March 7?

12 MR. RAVI: That's acceptable to the government.

13 MR. LINDER: That is okay with us.

14 THE COURT: All right. So I will start keeping my  
15 calendar clear for that. Obviously we don't know what the  
16 situation is with COVID. We have got a bunch of trials that  
17 have been backed up. Criminal cases have priority. Jail cases  
18 have priority among the criminal cases. So I can't lock in  
19 that date with the Clerk's Office yet, but I will block out  
20 that time on my calendar and I will request that date. And I  
21 will rely on the parties as to whether it looks like we will be  
22 going forward. I'm not sure -- at this point we are not yet  
23 back to trying cases in our own courtrooms. We are still  
24 trying them under the COVID conditions, with socially distanced  
25 jurors in the socially distanced courtrooms that we already

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1 have set up. So unless -- if we go back to trying cases in our  
2 own courtrooms, then that will be easier to handle. Otherwise  
3 we will have to -- I think we only have three courtrooms  
4 available to try cases.

5 What I think probably makes sense is to probably have  
6 a pretrial conference a month before, let's say February 8 at  
7 10:00. Let's set a pretrial conference. If we are on track to  
8 go to trial on March 7, if you have any motions, file those by,  
9 let's say, 30 days before that date, by the first week in  
10 January, and I will prepare for us to go forward.

11 Is there anything else that we need to address today  
12 for the defense?

13 MR. BRAFMAN: I don't believe so, Judge.

14 MR. LINDER: Nothing, Judge.

15 THE COURT: Anything else from the government?

16 MR. RAVI: Your Honor, just to confirm, so the dates  
17 that I have is a pretrial conference on February 8, 2021 [sic]  
18 with any motions -- pretrial motions *in limine* to be filed 30  
19 days before, and the Friday is January 7, 2021 [sic]. Does  
20 that work for the Court?

21 THE COURT: That's fine.

22 MR. RAVI: And is the Court going to permit --

23 THE COURT: 2022.

24 MR. RAVI: Sorry. Yes. Correct, 2022.

25 And will the Court permit two weeks, as well, for any

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1 kind of oppositions for the parties?

2 THE COURT: Yes, yes, so hopefully we can address  
3 those motions on February 8.

4 MR. RAVI: Okay.

5 THE COURT: So I will wait to hear from the parties.  
6 If there are any complications, let me know. As we get closer  
7 to the date, as we get more information, exactly the  
8 availability or how we are going to try the case, I will let  
9 you know so we can make sure we are confirmed for that date.  
10 All right?

11 Obviously if there is a proposed disposition, contact  
12 my chambers and we will do that before those dates.

13 All right? So I will wait to hear from you, and I  
14 will see you on February 8.

15 MR. RAVI: Your Honor, one more application. The  
16 government moves to exclude time under the Speedy Trial Act in  
17 the interests of justice until the February 8, 2021 [sic]  
18 conference, in order to allow the parties time to begin  
19 preparing for trial.

20 THE COURT: Any objection?

21 MR. BRAFMAN: No, your Honor.

22 MR. LINDER: No objection, Judge.

23 THE COURT: Then I will exclude the time in the  
24 interests of justice between now and February 8. I will see  
25 all the parties at 10:00 on that date.

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1 COUNSEL: Thank you, your Honor.

2 THE COURT: I will schedule it live. If there is a  
3 preference for virtual or if we need to do it virtually, I will  
4 let the parties know.

5 COUNSEL: Thank you, your Honor.

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